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BASEL CONVENTION

Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal
Twelfth meeting
Geneva, 4–15 May 2015
Item 7 of the provisional agenda*
Other matters

Draft memorandum of understanding between the United Nations Environment Programme and the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal

Note by the Secretariat

I. Introduction

1. At its meeting held on 12 and 13 November 2012, the Expanded Bureau of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal was informed of the action taken by the Bureau of the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants on the development of a memorandum of understanding between the United Nations Environment Programme (UNEP) and the Conference of the Parties to the Stockholm Convention to better formalize their relationship (see UNEP/POPS/COP.6/32). The Expanded Bureau decided to invite the Executive Director of UNEP to consider the development of a memorandum of understanding with the Conference of the Parties to the Basel Convention.

2. At its eleventh meeting, held from 28 April to 10 May 2013, the Conference of the Parties to the Basel Convention considered a draft memorandum of understanding between it and UNEP, prepared by the Secretariat (UNEP/CHW.11/23, annex).[1]

3. In its decision BC-11/23, the Conference of the Parties, among other things:

(a) Took note of the requests by the Governing Council of UNEP to the Executive Director of UNEP to deepen consultations with the multilateral environmental agreements for which UNEP provides the secretariat functions and to prepare a report on the relationship between UNEP and those multilateral environmental agreements for submission to the United Nations Environment Assembly at its 2014 session and to the governing bodies of those multilateral environmental agreements;

* UNEP/CHW.12/1.

[1] The United Nations Environment Programme also submitted a revised version of the draft memorandum of understanding, which was made available at the meeting (UNEP/CHW.11/INF/35, annex).

(b) Invited the Executive Secretary to actively engage in the consultations undertaken by UNEP, bearing in mind the legal autonomy of the Basel Convention and the decision-making powers of the Conference of the Parties in relation to the provision of secretariat functions;

(c) Requested the Executive Secretary to report on those consultations and their possible impact on the proposed memorandum of understanding between the Executive Director of UNEP and the Conference of the Parties to the Basel Convention to the Bureau, during the intersessional period, and to the Conference of the Parties at its twelfth meeting;

(d) Also requested the Executive Secretary to submit a revised draft memorandum of understanding to the Conference of the Parties at its twelfth meeting.

II. Implementation

4. The Secretariat and UNEP have undertaken consultations on the relationship between UNEP and multilateral environmental agreements. In this regard, the Secretariat provided input during the drafting of the report on the relationship between UNEP and multilateral environmental agreements that was submitted to the United Nations Environment Assembly at its first session, held in June 2014. Information on the outcomes of those consultations, including their possible impact on the proposed memorandum of understanding between UNEP and the Conference of the Parties to the Basel Convention, was provided to the Bureau intersessionally.[2]

5. At its first session, the Environment Assembly adopted resolution 1/12, in which it welcomed the steps taken by the Executive Director to establish a task team of representatives of UNEP and multilateral environmental agreements, which had commenced consultations on the effectiveness of administrative arrangements and programmatic cooperation between UNEP and multilateral environmental agreements, including the Basel Convention. The Assembly also requested the Executive Director to submit a final report on those matters to the open-ended Committee of Permanent Representatives, with a view to putting the issue before the Assembly at its second session, to be held in May 2016, and to submit information on the progress made by the task team and its working groups to the conferences of the parties of multilateral environmental agreements, including the Conference of the Parties to the Basel Convention, to be held in the period before the second session of the Assembly.

6. The Secretariat has been working on a revised version of the draft memorandum of understanding, together with the Division of Environmental Law and Conventions and the Office for Operations and Corporate Services of UNEP, for consideration by the Conference of the Parties at its twelfth meeting. The revised draft is set out in the annex to the present note. In line with its provisions, the memorandum of understanding would be reviewed after each meeting of the Conference of the Parties to determine whether any modifications to it were needed, for instance in the light of the progress achieved by the UNEP-multilateral environmental agreements task team and the Executive Director of UNEP, as well as the outcome of the consideration by the United Nations Environment Assembly of the relationship between UNEP and multilateral environmental agreements at its second session.

III. Proposed action

7. The Conference of the Parties may wish to adopt a decision along the following lines:

The Conference of the Parties

1. *Approves* the proposed memorandum of understanding between the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the Executive Director of the United Nations Environment Programme concerning the provision of secretariat functions for the Basel Convention by the United Nations Environment Programme;[3]

2. *Requests* the President of the Conference of the Parties to sign the memorandum of understanding on behalf of the Conference of the Parties.

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[2] www.basel.int/TheConvention/ConferenceoftheParties/Bureau/COPBureau2014/Overview/tabid/3702/mctl/ViewDetails/EventModID/8051/EventID/470/xmid/11684/Default.aspx and http://synergies.pops.int/Decisionmaking/JointBureaux/JointBureauxMeetings/JointBureauxMeeting2014/Overview/tabid/4134/mctl/ViewDetails/EventModID/8751/EventID/527/xmid/12634/language/en-GB/Default.aspx.

[3] UNEP/CHW.12/25, annex.

Annex

Revised draft memorandum of understanding between the United Nations Environment Programme and the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CONFERENCE OF THE PARTIES TO THE BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

AND

THE EXECUTIVE DIRECTOR OF THE UNITED NATIONS ENVIRONMENT PROGRAMME

CONCERNING THE ARRANGEMENTS FOR THE PROVISION OF THE SECRETARIAT FUNCTIONS OF THE BASEL CONVENTION SECRETARIAT

(hereinafter referred to as the "Memorandum of Understanding")

The Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (the "Conference of the Parties") and the Executive Director of the United Nations Environment Programme (the "Executive Director"), as hereinafter also referred to individually as "Party" and collectively as the "Parties":

Recalling Article 15 of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (the "Convention"), which establishes its Conference of the Parties that keeps under continuous review and evaluation the effective implementation of the Convention, and, in addition, inter alia, considers and undertakes any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation,

Recalling Article16 of the Convention, which sets out the functions of the Secretariat of the Convention and provides that at its first meeting, the Conference of the Parties shall designate the Secretariat from among those existing competent intergovernmental organizations which have signified their willingness to carry out the secretariat functions,

Recalling also the decision of the United Nations General Assembly, contained in section II of its resolution 2997 (XXVII) of 15 December 1972, to establish the environment secretariat headed by the Executive Director of the United Nations Environment Programme ("UNEP"), who is responsible to perform, inter alia, such functions as may be entrusted to him by the Governing Council of the United Nations Environment Programme, and recalling, in that context, the relevant decisions of the Governing Council authorizing the participation of the secretariat of the United Nations Environment Programme in the Secretariat to the Convention,

Recalling further decision I/7 of 4 December 1992 of the Conference of the Parties to the Convention, by which the Conference of the Parties requested the United Nations Environment Programme to carry out the functions of the Basel Convention Secretariat, and further requested the Executive Director of UNEP to establish the Secretariat in accordance with the structure contained in the budget and to have the Secretariat located in Geneva,

Conscious of the need to maintain flexibility and adaptability in the management of the Secretariat of the Convention and in the provision of services to the Parties to the Convention, taking fully into account the United Nations and UNEP rules, regulations and procedures,

Recognizing that the provisions of the Convention and decisions of the Conference of the Parties alone guide the implementation of the Convention and its programme of work and direct the management of its Secretariat on all substantive issues,

Recalling decision BC-VI/41 on "financial matters" and decision BC-10/28 on the "financial rules for the Conference of the Parties, its subsidiary bodies and the Convention Secretariat", as adopted by the Conference of the Parties to the Basel Convention, which governs the financial administration of the Conference of the Parties, its subsidiary bodies and the Convention Secretariat,

Desiring to further improve the relationship between the Convention and UNEP in the provision of secretariat functions and to also recognise and further promote the mutual benefits of appropriate programmatic support,

Recalling decision IX/10 of the Conference of the Parties to the Basel Convention, decision RC-4/11 of the Conference of the Parties to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the "Rotterdam Convention"), and decision SC-4/34 of the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants (the "Stockholm Convention"), together hereinafter referred to as the "synergies decisions",

Recalling also decision BC.Ex-1/1 of the Conference of the Parties to the Basel Convention, decision RC.Ex-1/1 of the Conference of the Parties to the Rotterdam Convention and decision SC.Ex-1/1 of the Conference of the Parties to the Stockholm Convention, hereinafter referred to as the "omnibus decisions",

Recalling the audit observation in paragraph 17 of the Office of Internal Oversight Services report dated 26 April 2012, on the Audit of the Secretariat of the Convention, which noted that no formal Memorandum of Understanding has been signed between UNEP and the Parties to the Convention to further clarify the responsibilities of UNEP and the Convention for administrative and programmatic matters,

Further recognizing that, the conferences of the parties to the Basel, Rotterdam and Stockholm conventions, at their second extraordinary meetings, have simultaneously adopted decisions BC.Ex-2/1, RC.Ex-2/1 and SC.Ex-2/1, respectively, on enhancing cooperation and coordination among the Basel, Rotterdam and Stockholm conventions,

Recalling that, in decision BC-11/23 on the "development of a draft memorandum of understanding between the United Nations Environment Programme and the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal", the Executive Secretary of the Basel Convention Secretariat was requested, *inter alia*, to submit a draft memorandum of understanding to the Conference of the Parties to the Basel Convention at its twelfth meeting,

HAVE REACHED THE FOLLOWING UNDERSTANDING:

Basic principles

1. The Executive Director performs the functions of the Basel Convention Secretariat set out in paragraph 1 of Article 16 of the Convention, and for this purpose, provides necessary arrangements within UNEP, pursuant to decision I/7 of 4 December 1992 of the Conference of the Parties. In doing so, the Executive Director recognizes the legal autonomy of the Convention in relation to UNEP, and the role and functions of the Secretariat, as a body of the Convention, to serve the Convention and its Parties.

2. The Conference of the Parties acknowledges that the Executive Director is required to comply with the relevant rules, regulations and procedures of the United Nations and UNEP in the provision of the functions of the Basel Convention Secretariat, which should be in conformity with the requirements of the Convention and its Parties and consistent with the relevant decisions of the Conference of the Parties.

3. The Conference of the Parties and the Executive Director recognize that efficient and cost effective operation of the Convention Secretariat is of paramount importance for the effective operations of the Convention. The Executive Director will be guided by this principle in performing the secretariat functions listed in Article 16 of the Convention.

4. The Conference of the Parties and the Executive Director will take full account of each others' views on any significant action they intend within their respective mandates that may affect the interests of the Parties to the Convention, the Secretariat, or UNEP, or the efficient and effective administration of the Convention or of the rules and regulations of the United Nations and UNEP. The Executive Director or his/her designated representative is likely to be present when the Conference of the Parties considers and decides on a course of action, but the Conference of the Parties is not necessarily present when the Executive Director does so, and so it is of particular importance for the Executive Director to consult with the Conference of the Parties in advance of such action on his/her part. In the event of differing opinions, the Conference of the Parties and the Executive Director should seek to develop a course of action that is mutually acceptable in advance of taking action.

5. The Conference of the Parties acknowledges that its President will keep all of the Parties to the Convention, appraised of his or her interaction with the Executive Director on behalf of the Conference of the Parties.

Executive Secretary and staff of the Secretariat

6. In accordance with the omnibus decisions, an Executive Secretary, being the joint head of the Secretariats of the Basel, Stockholm Conventions and of the UNEP-part of the Secretariat of the Rotterdam Convention, will be appointed as a UNEP staff member in accordance with the United Nations staff rules and regulations.

7. The Executive Director will arrange for the recruitment of the Executive Secretary in accordance with the structure of the Secretariat set out in the applicable decisions of the Conference of the Parties, who will be selected in accordance with the United Nations staff rules and regulations. It is noted that in accordance with the relevant staff regulations and rules of the United Nations governing staff selection, recommendations for selection for position of the Executive Secretary at the D-2 level will be made by the Executive Director to the Senior Review Group of the United Nations Secretariat for review. Upon review, the Senior Review Group will make its recommendation to the Secretary-General of the United Nations, who will make the selection decision.

8. The Executive Director, bearing in mind the relevant decisions of the Conference of the Parties, will consult with the Conference of the Parties, through its President, or a Vice-President designated by the President in his/her absence, on the recruitment, selection, and appointment of the Executive Secretary and will make every effort to recommend an Executive Secretary who is acceptable to the Conference of the Parties, while recognizing that the United Nations staff rules and regulations applicable to UNEP will govern the recruitment, selection, and appointment of all secretariat staff, including the Executive Secretary.

9. Subject to paragraph 3 above, the Executive Director may extend or discontinue the contract of the Executive Secretary in accordance with the United Nations rules and regulations. To the extent possible within his/her powers, the Executive Director will consult with the Conference of the Parties through its President as appropriate at all stages of this process.

10. The Executive Director will provide the necessary administrative and financial support within the available financial resources, to ensure that any vacancies among the senior professional staff of the Secretariat will be filled, in accordance with the United Nations rules and regulations, as soon as possible, noting the competencies, knowledge, experience and expertise required for such posts. The Executive Director, in accordance with the United Nations regulations and rules, may delegate to the Executive Secretary the authority to take appointment decisions for the staff of the Secretariat.

11. The Executive Director will ensure that requests by the Secretariat for Junior Professional Officers (JPOs) are fully included, without prioritization by UNEP, in the list that UNEP annually shares with donor governments supporting JPOs.

12. The Executive Director, including through the Executive Secretary, as appropriate, shall advise the Conference of the Parties of any unforeseen delays in filling posts, recruiting gratis personnel or JPOs or other related human resource matters. The Executive Director understands the importance of explaining any such delays in writing to the Conference of the Parties, through its President, upon a written request by the President to the Conference of the Parties.

Delegation of authority

13. The Executive Director may delegate the necessary authority to the Executive Secretary on administrative and financial matters to enable the Executive Secretary to manage and represent the Secretariat with the level of autonomy required for maintaining the efficient and cost-effective operation of the Secretariat. Such a delegation may cover, inter alia: programme management; financial and physical resources management, human resources management and any other related matters, where decisions by the Executive Secretary may be the most effective for the operation of the Secretariat. The Executive Director is responsible for ensuring that the Executive Secretary exercises any such delegated authority in accordance with the rules and regulations of the United Nations and UNEP and the Executive Director's commitments in this Memorandum of Understanding.

14. The Conference of the Parties, through its President, may provide comments to the Executive Director on this delegation, recognising the flexibilities under and applicability of the United Nations and UNEP rules and regulations.

Administrative support and programme support costs

15. The Executive Director will work with the Executive Secretary of the Secretariat to determine the administrative service requirements for the Convention and to identify the most efficient and cost-effective means by which to ensure that the Convention receives the administrative, financial and human resource support, within the available financial resources, that it needs.

16. The Executive Director will allocate an appropriate share (which should initially not be less than 67%) of the annual Programme Support Costs (PSC) income attributable to all of the trust funds of the Convention to the Secretariat upon receipt of an annual cost plan that demonstrates that these funds will be used efficiently and effectively in support of Convention activities.

17. The Executive Director will allocate an appropriate share (which should initially not be more than 33%) of the PSC income attributable to all of the trust funds of the Convention to finance central administrative functions, as described in Annex 1, including those performed by UNON on behalf of UNEP, the UN's Office of Internal Oversight Services (OIOS) and the Board of Auditors. These central administrative functions include the following:

- Staff recruitment, classification and selection process;
- Payroll and administration of staff entitlements including education grants, medical insurance (including Appendix D), home leave, installation and repatriation grants;
- The UN's financial disclosure programme (billed by UN Headquarters in New York);
- Accounting and finance functions, including statement preparation, the issuance of allotments and allocations, payables/receivables, cash-flow management, treasury and contributions receipt and recording;
- Administration of end-of-service and post-retirement benefits including the administration of pension fund deductions and ASHI;
- Non-expendable property asset management;
- Internal audit, investigation, inspection and external audit;
- Participation in the UN's administration of justice system;
- Shipping, pouch, visas and UN Laissez-Passers;
- Access to the corporate UN/UNEP intranet/internet and mail systems.

18. The Executive Director will undertake the above action pursuant to rule 7 of the financial rules for the Conference of the Parties, its subsidiary bodies and the Secretariat of the Convention set out in decision BC-10/28 of the Conference of the Parties to the Convention, whereby the Conference of the Parties shall reimburse the United Nations Environment Programme for the services provided to the Conference of the Parties, its subsidiary bodies and the Convention Secretariat from the funds referred to in rule 4, paragraphs 1, 3 and 4, on such terms as may from time to time be agreed upon in writing between the Conference of the Parties and the United Nations Environment Programme or, in the absence of such agreement, in accordance with the general policy of the United Nations.

19. The Executive Director will provide full transparency in respect of the allocation of PSC between the Secretariat and central administrative functions, and provide a financial statement on a regular basis.

Financial matters and budgets

20. The financial operations of the Convention will be recorded in trust funds established in accordance with Article V of the General Procedures Governing the Operations of the Fund of UNEP and consistent with the financial rules for the Conference of the Parties, its subsidiary bodies and the Secretariat of the Convention set out in its decision BC-VI/41 on financial matters and in its decision BC-10/28. In respect of matters not specifically provided for by the rules as contained in these decisions, the Financial Regulations and Rules of the United Nations shall apply, and in the event of any conflict between the decisions of the Conference of the Parties and the Financial Regulations and Rules of the United Nations, the Financial Regulations an Rules of the United Nations shall prevail. The trust funds established by the Executive Director and managed by the Executive Secretary in this regard are the following:

(a) The General Trust Fund for the Convention (the "General Trust Fund"): this fund is to provide financial support for the work of the Convention Secretariat i.e. the core administrative costs of the Secretariat, the Conference of the Parties and its subsidiary bodies are financed from this General Trust Fund. This General Trust Fund is replenished from contributions by Parties to the Convention made pursuant to rule 5, paragraph 1 (a), of the financial rules for the Conference of the Parties, its subsidiary bodies and the Secretariat of the Convention. Contributions made to offset operational budget expenditures that are made pursuant to rule 5, paragraph 1 (b), or pursuant to rule 5, paragraph 1 (c), of these financial rules for the Conference of the Parties, its subsidiary bodies and the Secretariat of the Convention, by the United Nations Environment Programme, shall also be credited to this fund. All budget expenditures that are made pursuant to rule 3, paragraph 4, of the financial rules for the Conference of the Parties, its subsidiary bodies and the Secretariat of the Convention shall be charged to the General Trust Fund.

(b) The Technical Cooperation Trust Fund: this fund shall receive contributions pursuant to rule 5, paragraphs 1 (b) and (c), of the financial rules for the Conference of the Parties, its subsidiary bodies and the Secretariat of the Convention to support, in particular:

(i) Technical assistance, training and capacity-building;

(ii) Basel Convention regional and coordinating centres;

(iii) Participation of representatives of developing-country Parties, in particular least-developed-country Parties and small island developing States among them, and of Parties with economies in transition in the meetings of the Conference of the Parties and its subsidiary bodies pursuant to the procedure set out in the annex to the financial rules;

(iv) Cases of emergency and compensation for damage resulting from incidents arising from transboundary movements of hazardous wastes and other wastes and their disposal;

(v) The implementation fund as set out in paragraph 6 of decision IX/2 and further refined in decision BC-10/11.

(c) Subject to the approval of the Conference of the Parties, the Executive Director of the United Nations Environment Programme may establish other trust funds, provided they are consistent with the objectives of the Convention, and the Executive Director will inform the United Nations Environment Assembly of the United Nations Environment Programme of the creation of such trust funds accordingly.

21. Pursuant to decision BC-VI/41 on "financial matters" and to decision BC-10/28 on the "financial rules for the Conference of the Parties, its subsidiary bodies and the Convention Secretariat", as adopted by the Conference of the Parties to the Basel Convention, the accounts and financial management of all funds governed by these rules shall be subject to the internal and external audit process of the United Nations. An interim statement of accounts for the first year of the financial period shall be provided to the Conference of the Parties during the second year of the period, and a final audited statement of accounts for the full financial period shall be provided to the Conference of the Parties as soon as possible after the accounts for the financial period are closed. The Conference of the Parties shall be informed of any relevant remarks in the reports of the United Nations Board of Auditors on financial statements of the United Nations Environment Programme.

22. The Conference of the Parties to the Convention, including through its President, will oversee the development and execution of the budget managed by the Secretariat as derived from the trust funds of the Convention.

23. The Executive Director will comply with, and ensure that the Executive Secretary complies with, the specific decisions of the Conference of the Parties adopted at its each meeting, including with respect to matters related to the financing and budgeting of the Secretariat, taking into account the availability of resources and in accordance with the Financial Regulations and Rules of the United Nations and UNEP.

24. The Conference of the Parties understands that a copy of the draft secretariat budget will be shared with the Executive Director for review and comments before the final proposed budget is submitted by the Executive Secretary for consideration by the Conference of the Parties at its next meeting.

25. The Executive Director, in accordance with decision 19/24 (B) of 7 February 1997 of the Governing Council of the UNEP, will provide the Parties to the Convention with detailed information on administration services provided to the Convention through the Annual Report referred to in paragraph 35, with the understanding that the level of detail will be consistent with the needs of the Parties to the Convention and within the procedures applicable to UNEP.

Performance evaluation and management review

26. Evaluation of the performance of the staff and other relevant personnel of the Secretariat will be conducted in accordance with the relevant rules and regulations of the United Nations as applied to UNEP.

27. Through the delegation of authority referred to in paragraph 13 above, the Executive Secretary will manage the performance of all staff of the Secretariat. The Executive Director will appraise the performance of the Executive Secretary. In both cases, performance evaluation and appraisal will be conducted through the United Nations performance evaluation and development system currently in use.

28. The Executive Director will ensure the Conference of the Parties has access to information regarding the applicable criteria for performance appraisal under the United Nations performance management and development system.

29. In case of appraising the programmatic performance of the Executive Secretary, and his/her subordinate staff, the Executive Director acknowledges that the substantive work programme of the Secretariat is determined by the Conference of the Parties and its subsidiary bodies alone. The Executive Director will invite the Conference of the Parties, through its President, to provide comments regarding the performance of the Executive Secretary prior to commencing the Executive Secretary's performance appraisal.

30. The Executive Director will ensure that the Executive Secretary acts in conformity with the provisions of the Convention and the rules and regulations of the United Nations on these and other substantive functions as may be entrusted to the Secretariat by the Parties to the Convention.

31. The Executive Director will ensure that the Executive Secretary implements the policy guidance of the Conference of the Parties during and between the meetings of the Conference of the Parties.

32. The Executive Director will consult with the Conference of the Parties on the performance of the Executive Secretary, and the Conference of the Parties may, through its President, submit to the Executive Director its comments on the performance of the Executive Secretary on an annual basis or as the Conference of the Parties deems necessary.

33. At the request of the Executive Director or by his/her own initiative, the Executive Secretary may, in consultation with the Conference of the Parties or at its request, commission an independent management review of the Secretariat and its functions, with a view to promoting cost efficiency, transparency and furthering the goals and implementation of the Convention. Such reviews are not audits or investigations and will not therefore impinge upon the prerogatives of the Board of Auditors, OIOS and the UN's information disclosure policies. The Executive Secretary will keep the Conference of the Parties and the Executive Director fully informed of any such reviews that are undertaken.

34. The Executive Director provides full transparency and accountability in respect of performance evaluation and management review, and ensures that results are promptly processed, communicated to Parties to the Convention, and upon request, made available to Parties to the Convention.

Annual report

35. The Executive Director will submit 90 (ninety) days in advance of each regular meeting of the Conference of the Parties, a report concerning the provision of and support to the Secretariat, including as appropriate the implementation of this Memorandum of Understanding.

Programmatic relationship

36. The Conference of the Parties understands that the Convention may provide a context for implementation of certain aspects of the Medium-term Strategy and the programme of work of UNEP, through its Costed Programme of Work, subject to the approval of the Conference of the Parties and to the extent consistent with the Convention.

37. The Executive Director understands that UNEP may provide a tool for implementation of certain aspects of the Convention and decisions of the Conference of the Parties, subject to the approval of the Governing Council and to the extent consistent with UNEP's mandate.

38. The Executive Director will consult with the Executive Secretary, who will consult with the Conference of the Parties, through its President, on activities which UNEP might undertake in providing programmatic support to the Convention, and the Executive Secretary will consult with the Executive Director and the Conference of the Parties, through its President, on activities which might be undertaken within the framework and mandate of the Convention for implementation of certain aspects of the Medium-term Strategy and the programme of work of UNEP.

39. The Executive Director will consult with, and fully involve the Executive Secretary in the planning, development and implementation of any projects and programmes that relate to the provision of support for the implementation of the Convention and in any joint funding arrangements that include such support for implementing the Convention which are, or are proposed to be, arranged with donors. The Executive Director, directly or through the Executive Secretary, will consult with the Conference of the Parties, through its President, regarding projects or programmes that would affect the implementation or relate to the financing of the Convention.

40. The Executive Director may call meetings of Secretariats of the relevant multilateral environmental agreements, as well as joint meetings of all senior staff employed through UNEP, and invite the Executive Secretary to participate in those meetings. The Executive Director will meet the costs of travel and other expenses related to the Executive Secretary's participation in any such meetings. The Executive Director, through the Executive Secretary, will ensure that the Conference of the Parties, through its President, is regularly informed about the outcomes of such meetings.

41. The Conference of the Parties, through its President, will be fully consulted by the Executive Secretary regarding all proposals relating to programmatic support referred to in paragraph 38 and about the outcome of meetings referred to in paragraph 40.

Ongoing consultations in implementation

42. The Conference of the Parties and the Executive Director, keeping the Executive Secretary informed, will hold consultations on a regular basis, and as needed, on all issues related to the implementation of the present Memorandum of Understanding. These consultations will be conducted through the President of the Conference of the Parties, who will seek the views of the Parties to the Convention and reflect these during the consultation, or may be conducted as otherwise mutually determined by the Conference of the Parties and the Executive Director.

43. On specific issues, or in his/her absence, the President may designate a Vice-President to conduct such consultations. The Executive Director, in his/her absence, may be represented by a designated senior representative.

44. Any difference of opinion regarding the implementation of the Convention is to be resolved to the satisfaction of the Parties to the Convention, including through the Conference of the Parties, as they deem appropriate; for differences of opinion regarding implementation or interpretation of this Memorandum of Understanding, the Executive Director will consult with the Conference of the Parties and make every effort to reach a mutually acceptable outcome.

Final provisions

45. This Memorandum of Understanding does not impose, nor is it intended to impose, any legally binding commitments.

46. This Memorandum of Understanding is entered into without prejudice to any administrative arrangements which might be agreed upon between UNEP and the Basel Convention or any other relevant multilateral environmental agreements in the future.

47. This Memorandum of Understanding becomes operative on the date on which both the Conference of the Parties, represented by its President, and the Executive Director have signed.

48. Upon signature by both Parties, this Memorandum of Understanding will supersede any previous agreements between the Parties to it.

49. This Memorandum of Understanding may, at the request of either Party to it, be reviewed at any time. Such a request will be made at least 4 (four) months in advance, and will then be addressed at the next meeting of the Conference of the Parties. In any event, this Memorandum of Understanding will be reviewed after each meeting of the Conference of the Parties to determine whether any modifications, including termination, are needed. Any modifications, including termination, to the Memorandum of Understanding will be mutually agreed in writing between the Parties to it.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties to the present Memorandum of Understanding affix their signatures below.

For the United Nations Environment Programme	**For the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal**
_____	_____
Mr. Achim Steiner	Mr. Andrzej Jagusiewicz
Executive Director	President
Date:	Date: